IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl.Misc No.3527-M of 2007

Date of Decision: 30.1.2007.

Sudesh Aggarwal

....Petitioner.

Versus

Vivek Pathak

...Respondent.

CORAM : Hon'ble Mr. Justice Surya Kant.

Present:- Mr.Sunil Chadha,Advocate
for the petitioner.

Mr.Satinder Khanna, Advocate
for the respondent.

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SURYA KANT, J.(ORAL)

In this petition, challenge is to the order dated 8.1.2007, passed by the learned Judicial Magistrate Ist Class, Phagwara, vide which the defence evidence of the petitioner in a criminal complaint under Section 138 of the Negotiable Instruments Act, 1881, has been closed.

A perusal of the impugned order reveals that despite reasonable opportunities including the last opportunity granted to the petitioner, he failed to produce his defence evidence.

Learned counsel for the respondent-complainant, however, has taken a fair stand that in the interest of justice some reasonable opportunity may be granted to the petitioner to lead the defence evidence, if any. He, however, has pointed out that the complaint was filed in the year 2001.

However, the petitioner has not permitted the learned Judicial Magistrate to dispose of the same on merits on one pretext or the other.

After hearing learned counsel for the parties, though no legal infirmity can be found with the impugned order dated 8.1.2007 passed by the learned Judicial Magistrate Ist Class however, in order to give not more than two effective opportunities to the petitioner to lead his evidence, if any, and that too in the light of fair stand taken by learned counsel for the respondent-complainant that the complaint was filed way back in the year 2001 and no case is made out against the accused persons, this petition is dispose of with the following directions:

(i)the learned Judicial Magistrate may grant two more opportunities to the petitioner to lead his defence evidence, if any, on or before 31.3.2007;

(ii) the aforementioned opportunities shall be accorded to the petitioner subject to his paying costs of Rs.4000/- .

(iii)It will be the sole responsibility of the petitioner to bring defence evidence at his own responsibility;

(iv)the learned Judicial Magistrate shall make an endeavor to dispose of the complaint as early as possible and preferably on or before April 30, 2007.

Disposed of.

(SURYA KANT)
JUDGE

January 30 ,2007.
Reema